

Westchester  
gov.comDEPARTMENT OF CORRECTION  
VAHALLA, NEW YORK 10595

12 CV 06268

SPECIAL CHARGE FORM  
ONE FORM PER PIECE OF MAIL IS REQUIRED

SEND TO:

HEADQUARTERS - INMATE ACCOUNTS

LAST NAME:

HAYES

FIRST NAME:

HENRY

DATE: 8-7-12

JID # P-

36202

(PLEASE PRINT CLEARLY)

CELL LOCATION:

J3-12

CIRCLE ONE: NEW JAIL / OLD JAIL / PENITENTIARY

I authorize the Westchester County Department of Correction to charge my account for services indicated below:

|  |                                   |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> OVERSIZED / OVERWEIGHT MAIL TO BE CHARGED AT FIRST CLASS MAIL RATE |                                   |
| CERTIFIED MAIL - \$2.80  | RETURN RECEIPT - \$2.30           |
| USA SMALL FLAT RATE ENVELOPE - \$4.95  | USA SMALL FLAT RATE BOX - \$5.20  |
| USA MEDIUM FLAT RATE BOX - \$10.95   | USA LARGE FLAT RATE BOX - \$14.95 |
| COPY CHARGES (NUMBER OF COPIES) _____  | @ 10 ¢ each = \$ _____            |

ADDRESSEE'S NAME:

THE Hon. Charles L. Brieant Jr. Federal Building/Courthouse So.

ADDRESS:

CITY:

White Plains

STATE:

NY

ZIP CODE:

10601

☒ 42 U.S.C. 1983 Civil Rights Action☐ Appeal☐ Petition for Writ of Habeas Corpus Action☐ Article 78 Petition☐ Article 440 Motion☐ 50-e Notice of Claim (Certified)I ACKNOWLEDGE THAT THE COST OF SUCH MATERIAL MAY BE DEDUCTED FROM  
FUTURE DEPOSITS IN MY COMMISSARY ACCOUNT.

INMATE'S SIGNATURE

NO MAIL WILL BE PROCESSED WITHOUT A "COMPLETE" FORM

FOR OFFICE USE ONLY

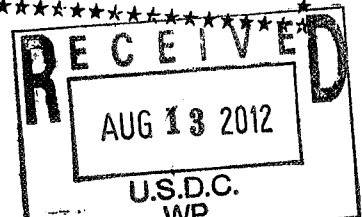
CRR #

AMOUNT \$

DATE

RETURNED FOR EXTRA FEE

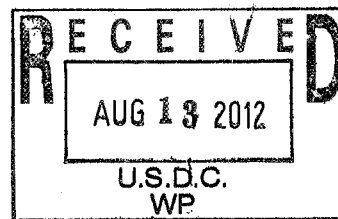
DCQ/dcq - REV. 3/11



This is an extra sheet of paper added because it is necessary. The blanks have been filled in to each (for all - summons, complaint, In Forma Pauperis [to proceed w/out prepayment of costs], affidavit in support of my indigence and 440.10 / Motion to vacate judgment). This is a continuation of the necessary facts I need to proceed in court - ALL I CAN AFFORD. The numbers are placed after each answer, before each answer there is a number and the answers to each blank is chronologically placed down each piece of paper I refer to. Please refer to each page. Thank you.

Also, for the complaint: this needs to be added. I was told that I was being charged [and my food stamp case would be turned off]. They will not let me not be convicted in front of my face and then turned around to be back to them (and now it's not to my face - one person is talking, another is turning me around and I couldn't be told to my face). The cuffs were placed on me too tightly and I lost circulation [I'm just recovering]. Also, may have discovered (along with my welfare assistance case) I had a conditional discharge. Please refer to complaint. Thank you. [Numbered paragraph 2]. (please refer to the complaint and for the complaint).

Please send all responses to: Mr. Henry C. Hayes, Jr.  
149 Beechwood Ave.  
Mt. Vernon, NY 10553



Henry C. Hayes, III

The City of New Rochelle, NY ⑧

① Henry C. Hayes, III

② Henry C. Hayes, III ⑨ W.C.D.O.C. P.O. Box 10 Valhalla, NY 10595

7/26/12 - 8/3/12 { 149 Beechwood Ave. Mt. Vernon, NY 10553 } 7/24 - 7/25/12  
475 No. Ave  
N.R., NY 10801

③ Henry C. Hayes, III New York

⑤ The City of New Rochelle, NY New Rochelle, NY ⑩

⑨ The City of New Rochelle, NY The City of New Rochelle, NY The City of New Rochelle, NY

⑩ The City of New Rochelle, NY New York

⑬ Southern New York ⑭

⑭ ⑮

⑰ 7/26/12 ⑰ ⑱

②② 1. I was given a ticket to appear for drinking in Public. The beer I had been drinking did not have any remaining and denied (only saying I was pouring one out that had been spoiled, for the .5¢ deposit). This was some time after being released from jail on a conditional release. I believe the officer checked his computer to scare me and issued a bogus ticket (where he had not seen me drinking a 24oz. beer).

2. I was stopped, frisked and asked what is this? No warrant for my arrest had been issued. They and I found a crack stem in a garbage bag full of .5¢ deposit cans (plastic and glass bottles). I was released and told I would be freed after I appeared in court. I wasn't told of an R.O.R.. I've been going to court for this assumption it was mine. They must've checked their computer and found conditional discharge.

3. I was arrested and charged with criminal mischief.

I was at the hospital at the time when the officer's came in. I described what happened and blatantly ignored. One officer, after explaining (that I was told I would be allowed to stay at a shelter on 60 Washington Ave. in New Rochelle, NY after speaking with the director but the director changed the time to another - early morning - I remained calm because I couldn't stay. I knocked immediately again and again. On the window, also. One pane accidentally broke. I was trying to inform him of the time he had explained to me, that I had nowhere to sleep and the building was faulty because of the last time I had slept there - the whole/entire building shook after a knock on the wall/door to awake me and it shook the same when the director knocked to awaken others - If he hadn't invited me I wouldn't have been on the premises. Also, the officers wrestled me to the ground after using the restroom, escorting me (after explaining they fully was ignoring me), pinched my arm and began to walk as if he was me with me back to a room. Where after I was removing my arm from (myself) his grasp, I was handcuffed to the bed and given 6 stitches. Then brought to jail.

(23)

(24) holding a record of a crime I did not do.

(25) \$15,000.00 Seventy-five Thousand <sup>and</sup> no cents

2<sup>nd</sup> August 2012

HENRY C. Hayes, III

HENRY C. Hayes, III

8-2-12

Henry C. Hayes, III  
The City of New Rochelle, NY

Henry C. Hayes, III  
2<sup>nd</sup> August 2012  
2<sup>nd</sup> August 2012

H.C. Hayes, III

Southern District of New York (24)

HENRY C. HAYES, III  
THE CITY OF NEW ROCHELLE, NY

Henry C. Hayes, III

1. S.C.Y.T. Lugoff, SC - 2004 (July/August+), \$150.00/month.  
One month and one half of a month.

2. above (same as above).

3. No

No

No

No

No

No

4. No

5. No

6. N/A

7. N/A

8. N/A

2<sup>ND</sup> August 2012

H.C. Hayes, III

075-62-3463

04-19-75

Ch. 16

USING 42 U.S.C. § 1983

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**A-1. Sample Summons Form**

This is based on the official form. You can get as many free copies as you need from the clerk of the U.S. district court for your district.

In the United States District Court  
For the \_\_\_\_\_<sup>1</sup>

-----X  
[Name(s) of the Prisoner(s)  
Who Are Bringing the Suit],  
Plaintiffs,

v.

[Names and Titles of All the People  
and Governments Whom  
You Are Suing], individually and  
in their official capacities,<sup>3</sup>  
Defendants.  
-----X

Summons

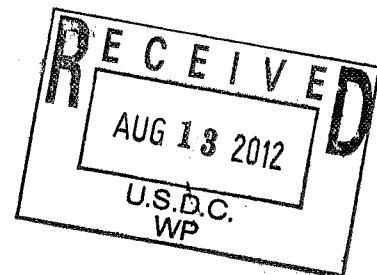
Civil Action No. \_\_\_\_\_<sup>2</sup>

To the Above-Mentioned Defendants:

You are hereby summoned and required to serve upon plaintiffs, whose address is \_\_\_\_\_,<sup>4</sup> an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Clerk of the Court

Date:



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## A JAILHOUSE LAWYER'S MANUAL

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**A-2. Sample § 1983 Complaint Form<sup>5</sup>**

In the United States District Court  
For the \_\_\_\_\_<sup>6</sup>

-----X  
[Name(s) of the Prisoner(s)  
Who Are Bringing the Suit],  
Plaintiffs,

v.

[Names and Titles of All the People  
and Governments Whom  
You Are Suing], individually and  
in their official capacities,<sup>8</sup>  
Defendants.  
-----X

Complaint

Civil Action No. \_\_\_\_\_<sup>7</sup>

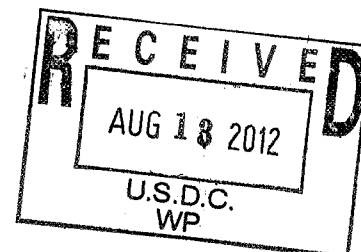
RECEIVED  
SONY PRO SE OFFICE  
2012 AUG 14 P 3:55

**I. Complaint**

1. Plaintiffs, [your name and the name of any other plaintiffs], pro se, for their complaint state as follows:

**II. Parties, Jurisdiction and Venue**

2. Plaintiff [your name] was confined<sup>9</sup> in the [type of facility: municipal (city) jail, federal penitentiary, state correctional institution], located at [address of the facility] in the city of \_ in the state of \_ from [dates of confinement at that facility] to \_ of 20 \_\_. Plaintiff is currently confined at [your current address].
3. Plaintiff [your name] is, and was at all times mentioned herein, an adult citizen of the United States and a resident of the state of \_\_\_\_\_.
4. [If other prisoners are complaining, you should repeat paragraphs 2 and 3 for their names and addresses].
5. Defendant [name of first defendant]<sup>10</sup> was at all relevant times herein mayor of the city of \_.<sup>11</sup>
6. Defendant [name of second defendant] was at all relevant times herein the commissioner of adult services for the city of \_, with responsibility for operating and maintaining detention, penal, and corrective institutions within the City of \_\_\_\_\_, including the city jail.<sup>12</sup>



7. Defendant *[name of third defendant]* is and was at all relevant times herein the warden or "superintendent" of the municipal jail for the City of \_\_\_\_\_. As Superintendent of the prison, Defendant manages its day-to-day operations and executes its policies.
8. Defendant *[name of fourth defendant]* is and was at all relevant times herein an employee of the prison.
9. Defendant \_\_\_\_\_ is employed as *[job of defendant, such as prison guard, mayor, warden or doctor]* at *[name of prison or other place that this defendant works]*. Defendant \_\_\_\_\_ is employed as *[job of defendant, such as prison guard, mayor, warden or doctor]* at *[name of prison or other place that this defendant works]*.
10. Defendant City of \_\_\_\_\_ is and was at all relevant times herein a municipal corporation of the State of \_\_\_\_\_.
11. This action arises under and is brought pursuant to 42 U.S.C. Section 1983 to remedy the deprivation, under color of state law, of rights guaranteed by the Eighth and Fourteenth Amendments<sup>13</sup> to the United States Constitution. This Court has jurisdiction over this action pursuant to 28 U.S.C. Section 1331.
12. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Sections 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.
13. This cause of action arose in the \_\_\_\_\_ District of \_\_\_\_\_.<sup>14</sup> Therefore, venue is proper under 28 U.S.C. Section 1391(b).

### III. Previous Lawsuits by Plaintiff

14. Plaintiff has filed no other lawsuits dealing with the same facts involved in this action or otherwise relating to his/her imprisonment.<sup>15</sup>

#### **Use these paragraphs if you have filed a lawsuit before:**

15. Plaintiff has filed other lawsuits dealing with the same facts involved in this action or otherwise relating to his/her imprisonment.
16. *[Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)]* The parties to the previous lawsuit were Plaintiffs *[names of all of the plaintiffs in that lawsuit]* and Defendants *[names of all of the defendants in that lawsuit]* in the *[if federal court, name the district; if state court, name the county]* Court, Docket Number \_\_\_\_\_, under *[name of judge to whom case was assigned]*. The case was *[disposition (outcome) of the cases: dismissed? appealed? still pending?]*. The lawsuit was filed on \_\_\_\_\_, 20\_\_\_\_ and I knew the outcome on \_\_\_\_\_, 20\_\_\_\_.

IV. Exhaustion of Administrative Remedies<sup>16</sup>

17. I used the prisoner grievance procedure in this institution to try to solve my problem.  
On \_\_\_\_\_, 20<sup>17</sup>, I presented the facts relating to my complaint in the state prisoner grievance procedure. \_\_\_\_\_<sup>18</sup>

OR

18. I used the prisoner grievance procedure in this institution to try to solve my problem.  
On \_\_\_\_\_, 20<sup>19</sup>, I did not get an opportunity to present the facts related to my complaint in the state prisoner grievance procedure because \_\_\_\_\_<sup>20</sup>

OR

19. I did not use the prison grievance procedure because \_\_\_\_\_<sup>21</sup>

OR

20. There is no prison grievance procedure in my institution, but I complained to prison authorities on \_\_\_\_\_, 20<sup>22</sup>. The prison officials responded to my complaint by \_\_\_\_\_.

## V. Statement of Claim

21. At all relevant times herein, defendants were "persons" for purposes of 42 U.S.C. Section 1983 and acted under color of law to deprive plaintiffs of their constitutional rights, as set forth more fully below.

## VI. Statement of Facts

22. *[State here fully but as briefly as possible the facts of your case. Describe how each defendant is involved. The facts should be in clear, chronological order, like you are telling a story. Try to start out each paragraph with the date of the events you are describing. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes.<sup>23</sup> If you intend to allege a number of related claims, number and give each claim in a separate paragraph. Use as much space as you need. Attach extra sheet(s) if necessary. See the examples of language given for each kind of violation that are given in Appendix A-8. You should also look at the full sample complaint in Appendix A-9.]*

## VII. Prayer for Relief

**State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes. Some sample things you might want are:**

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USING 42 U.S.C. § 1983

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23. Plaintiffs request an order declaring that the defendants have acted in violation of the United States Constitution.

24. Plaintiffs request an injunction<sup>24</sup> compelling defendants to provide \_or stop \_.

25. Plaintiff requests \$\_as compensatory damages.

Signed this \_day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
[Name of Plaintiff]

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
PLAINTIFF'S NAME

\_\_\_\_\_  
DATE

**A-3. Form for an Affidavit** *N/A*

This form is for plaintiffs, other prisoners, or anyone else who wants to make a sworn statement on behalf of plaintiffs.

In the United States District Court  
For the \_\_\_\_\_<sup>25</sup>

-----X  
[Name of First Prisoner in  
Complaint],<sup>26</sup> et al.,  
Plaintiffs,  
  
v.  
  
[Name of First Defendant in  
Complaint],<sup>28</sup> et al.,  
Defendants.  
-----X

Affidavit

Civil Action No. \_\_\_\_\_<sup>27</sup>

[Full name of prisoner or other person making the statement], being duly sworn,  
deposes and says:

[Write statement here. Use numbered paragraphs.]

Sworn to before me this  
\_\_ day of \_\_, 20\_\_.

<sup>29</sup>

NOTARY PUBLIC

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USING 42 U.S.C. § 1983

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**A-4. Order to Show Cause and Temporary Restraining Order (TRO)** *N/A*

Be sure to submit, along with this paper, an affidavit (Form A-3) stating how you will be hurt if you do not get temporary relief and how you tried to notify the defendants of your request for temporary relief.

In the United States District Court  
For the \_\_\_\_\_

-----X  
[Name of First Prisoner in  
Complaint], et al.,  
Plaintiffs,

v.

[Name of First Defendant in  
Complaint], et al.,  
Defendants.  
-----X

Order to Show Cause  
and Temporary  
Restraining Order

Civil Action No.

Upon the complaint, supporting affidavits of plaintiffs, and the memorandum of law submitted herewith, it is:

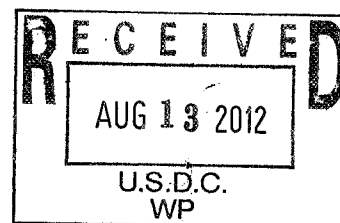
ORDERED that defendants [*names of defendants against whom you need immediate court action*] show cause in room \_\_\_\_ of the United States Courthouse, [*address*] on the day of \_\_, 20\_\_, at \_\_ o'clock,<sup>30</sup> why preliminary injunction should not issue pursuant to Rule 65(a) of the Federal Rules of Civil Procedure enjoining the defendants, their successors in office, agents and employees and all other persons acting in concert and participation with them, from [*a precise statement of the actions you want the preliminary injunction to cover*].

IT IS FURTHER ORDERED that effective immediately, and pending the hearing and determination of this order to show cause, the defendants [*names of defendants against whom you want temporary relief*] and each of their officers, agents, employees, and all persons acting in concert or participation with them, are restrained from [*statement of actions you want the preliminary injunction to cover*].

IT IS FURTHER ORDERED that this order to show cause, and all other papers attached to this application, be served on the aforesaid Plaintiffs by [*date*].

Dated: [*leave blank*]

[*leave this space blank for judge's signature*]  
United States District Judge



**A-5. In Forma Pauperis (IFP) Papers**

You should ask for this form from the district court clerk where you will be filing your complaint. They will also send you the paperwork for you to fill out regarding your prison account that is required by the Prison Litigation Reform Act.

**a. Notice of Motion to Proceed In Forma Pauperis<sup>31</sup>**

In The United States District Court  
For the \_\_\_\_\_<sup>32</sup>

-----X  
[Name of the Prisoner(s)  
Who Is (Are) Bringing the Suit],  
Plaintiffs,

v.

[Names and Titles of All the People  
and Other Entities Whom You Are  
Suing]  
Defendant.  
-----X

Notice of Motion to Proceed  
As a Poor Person

Civil Action No. \_\_\_\_\_<sup>33</sup>

PLEASE TAKE NOTICE, that upon the declaration [or affidavit or affirmation] of [your name], sworn to on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, a motion will be made at a term of this court, for an order permitting plaintiff to pursue this action as a poor person, upon the ground that said plaintiff has insufficient income and property to enable [him/her] to pay the costs, fees, and expenses to pursue said action, and for such other and further relief as this Court may deem just and proper.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Signature of Plaintiff)

To: \_\_\_\_\_  
Clerk  
United States District Court  
For the \_\_\_\_\_

*b. Declaration in Support of Request to Proceed In Forma Pauperis*

In the United States District Court

For the <sup>35</sup>\_\_\_\_\_-----X  
[YOUR NAME IN CAPITAL LETTERS] :

(Petitioner/Plaintiff) :

v. :

[RESPONDENT'S NAME IN ALL CAPS] :

(Respondent(s)/Defendant(s)) :  
-----X

I, [Your Name], am the petitioner/plaintiff in the above entitled case. In support of my motion to proceed without being required to prepay fees or costs or give security therefore, I state that because of my poverty I am unable to pay the costs of the said proceeding or to give security therefore, that I believe I am entitled to redress.

I declare that the responses which I have made below are true.

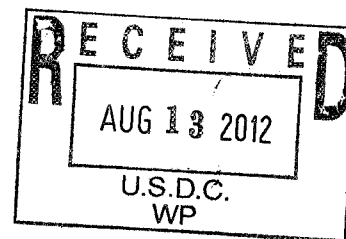
1. If you are presently employed, state the amount of your salary wage per month, and give the name and address of your last employer. **YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.**

2. If you are **NOT PRESENTLY EMPLOYED**, state the date of last employment and amount of the salary per month that you received AND how long the employment lasted. **YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED. IF YOU HAVE NEVER BEEN EMPLOYED, SAY SO.**

3. Have you ever received, within the past twelve months, any money from any of the following sources?

|  |            |           |
|--|------------|-----------|
| a. Business, profession, or form of self-employment? | <b>YES</b> | <b>NO</b> |
| b. Rent payments, interest, or dividends?            | <b>YES</b> | <b>NO</b> |
| c. Pensions, annuities, or life insurance payments?  | <b>YES</b> | <b>NO</b> |
| d. Gifts or inheritances?                            | <b>YES</b> | <b>NO</b> |
| e. Any form of public assistance?                    | <b>YES</b> | <b>NO</b> |
| f. Any other sources?                                | <b>YES</b> | <b>NO</b> |

If the answer to any of the questions (a) through (f) is yes, describe each source of money and state the amount received from each during the past months.



4. Do you own any cash or do you have money in a checking or savings account? Include any funds in prison accounts.

\_\_\_ If the answer is yes, state the total value owned.

5. Do you own any real estate, stock, bonds, notes, automobiles, or other valuable property (including ordinary household furnishings and clothing)?

\_\_\_ If the answer is yes, state the total value owned.

6. List the person(s) who are dependent upon you for support, state your relationship to those person(s), and indicate how much you contribute toward their support at the present time.

7. If you live in a rented apartment or other rented building, state how much you pay each month for rent. Do not include rent contributed by other people.

8. State any special financial circumstances which the court should consider in this application.

I understand that a false statement or answer to any questions in this declaration will subject me to the penalties of perjury.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this \_\_\_ day of \_\_\_, 20\_\_\_.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
Social Security No.

\_\_\_\_\_  
Date of birth

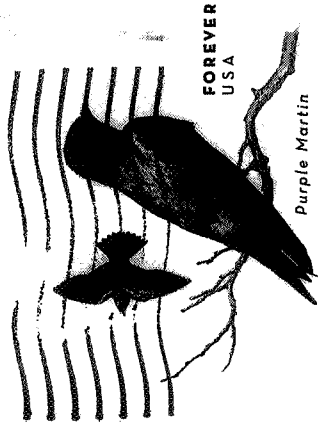
Henry C. Hayes, III

The City of New Rochelle, NY (3)

475 North Ave. New Rochelle, NY 10801 (4)

8-2-12

MR. HENRY D. HAYES, III  
149 Beechwood Ave.  
Mt. Vernon, NY 10553



Purple Martin

The Hon. Charles L. Bryant Jr. Federal  
Building / Courthouse So. Di. of NY  
300 Quarropas St.  
White Plains, NY 10601

USIM  
SDNY WP